

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE – OPELOUSAS DIVISION

JACQUELINE KASH

CIVIL ACTION

VERSUS

JUDGE _____

BLUE CROSS AND BLUE SHIELD
OF TEXAS

MAGISTRATE _____

COMPLAINT

The Petition of JACQUELINE KASH, person of the full age of majority and resident of the Parish of St. Mary, State of Louisiana, would with respect represent as follows, to-wit:

1.

Made defendant herein is BLUE CROSS AND BLUE SHIELD OF TEXAS, a foreign insurer, authorized to do and doing business in the State of Louisiana and is justly, legally and truly indebted unto your petitioner for the following, to-wit:

2.

This is a suit to recover death benefits under a Group Health Insurance Plan issued to the Claimant through Oceaneering International, as part of an Employee Government Benefit Plan governed by the Employer Government Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. § 1001, et seq. Accordingly, this Honorable Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 and venue is proper under 28 U.S.C. § 1391.

3.

Claimant was diagnosed with Stage II Grade 3 Endometrial Cancer requiring a laparoscopic hysterectomy on June 30, 2017 performed by Dr. Katrina Wade, GYN Oncology, at Ochsner Medical Center.

4.

Thereafter, Claimant underwent radiation therapy treatments from August 10, 2017 to October 16, 2017 consisting of intensity modulated radiation treatment (IMRT) in combination with brachytherapy (HDR). This treatment was administered by Dr. Nguyen Dang, Radiation Oncologist, at Thibodaux Regional Cancer Center.

5.

The above treatment was recommended by Dr. Wade in accordance with the National Comprehensive Cancer Network (NCCN) Guidelines and is medically necessary and considered the appropriate standard of care for the Claimant's diagnosis. Additionally, Dr. Dang has opined that this was the best treatment option for the Claimant based on her condition.

6.

Pre-certification was obtained by Thibodaux Regional Medical Center from defendant, BLUE CROSS AND BLUE SHIELD OF TEXAS, prior to the radiation therapy treatments.

7.

On December 20, 2017, BLUE CROSS AND BLUE SHIELD OF TEXAS issued a notice denying payment to Thibodaux Regional Medical Center for the radiation therapy treatments on the grounds that said treatments were not medically necessary. Thibodaux Regional Medical Center subsequently appealed the denial, which process went on for several months, but was ultimately unsuccessful.

8.

On July 16, 2018, BLUE CROSS AND BLUE SHIELD OF TEXAS issued a second notice of denial to the Claimant, again asserting that the radiation therapy treatments were not medically necessary.

9.

On September 27, 2018, Claimant appealed the denial, at which time she provided narrative reports from Drs. Wade and Dang strongly contradicting the position set forth by BLUE CROSS AND BLUE SHIELD OF TEXAS.

10.

Thereafter, for the first time, BLUE CROSS AND BLUE SHIELD OF TEXAS conducted an “external review”, which, not surprisingly, affirmed their grounds for denial.

11.

BLUE CROSS AND BLUE SHIELD OF TEXAS issued a final denial to Claimant on December 21, 2018. Accordingly, the Claimant has exhausted her administrative remedies with the defendant and has elected to file this lawsuit.

12

As a result of the defendant's actions, the Claimant is now being billed and is indebted to Thibodaux Regional Medical Center for \$66,629.06.

13.

Claimant respectfully submits that the administrative record herein will clearly show that the radiation therapy treatments recommended by Dr. Wade and performed by Dr. Dang meet the criteria for being a covered procedure under the defendant's plan and that the defendant has abused its discretion in denying payment to the healthcare providers in this case. The Claimant is entitled to attorney's fees and costs from the defendant under the 29 U.S.C. § 1132(G)(1), as well as in conformity with other laws and jurisprudence applicable thereto.

14.

The claimant further pray that the defendant file the administrative record in chronological and sequential order with consecutively-numbered pages rather than in random or shuffled order. The claimant requests this for the benefit of the party-litigants and the court.

WHEREFORE premises considered, Claimant, JACQUELINE KASH, prays that citation and service be made on the defendant, BLUE CROSS AND BLUE SHIELD OF TEXAS, herein and that after all legal delays and due proceedings are had, the defendant be ordered to pay all benefits to which the claimant is entitled as well as all reasonable attorney's fees and costs incurred in connection with this litigation, and for all other general and equitable relief.

RESPECTFULLY SUBMITTED BY:

RAMSEY, SKILES, STREVA & BOURGEOIS, LTD



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